Serial No. 1
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

AB No. 15 of 2020

Date of Decision: 16.09.2020

Monowar Hussain Vs. State of Meghalaya

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. B.Deb, Adv.
For the Respondent(s) : Mr. S.Sengupta, Sr. Addl. PP.

i) Whether approved for reporting in Law journals etc.: Yes/No

ii) Whether approved for publication in press: Yes/No

ORAL:

1. The Petitioner has approached this court with an application under section 438 Cr.PC with a prayer for grant of pre-arrest bail.

2. Heard Mr. B.Deb, learned counsel for the Petitioner who has submitted that an FIR was lodged by one Shri Brill Mao on 24.05.2020 on an allegation that one Shri Kryster G.Momin came to him for the purpose of selling P. Form (coal challan), saying that he got the said forms from two persons from Goalpara. The Complainant found that the forms were not genuine but are duplicates.

3. Accordingly, the police, on the basis of the said FIR have registered a criminal case being Mendipathar PS Case No. 11(5)2020 u/s 420/465/34 IPC.

4. In course of investigation, notice u/s 41-A Cr.PC dated 04.06.2020 was issued against the Petitioner herein requiring him to appear before the I/C

Dainadubi Police Outpost. The Petitioner has accordingly appeared before the said I/C as directed.

5. On 02.07.2020, the Petitioner received another summon/notice u/s 41-A Cr.PC from the investigating officer, Dy. Superintendent of Police (HQ) Resubelpara, North Garo Hills District, directing him to appear before him.

6. The Petitioner under the assumption that he may be arrested, had preferred an application for grant of Anticipatory Bail before the learned Additional District Magistrate (J), Resubelpara, which was rejected vide order dated 20.08.2020.

7. The Petitioner still believing that there exists a reasonable apprehension that he may be arrested on accusation of having committed a non-bailable offence, has approached this court with a prayer that he may be granted pre-arrest bail for which he undertakes to abide by any conditions imposed by this Court.

8. The learned counsel for the Petitioner has further submitted that the Petitioner is a person suffering from high blood sugar and requires to take insulin every day. He also hails from a humble and reputed family and is a permanent resident of the State. Therefore, if arrested, his reputation would be maligned and disgraced in the eyes of society and his life and liberty would be jeopardized.

9. It is prayed that this application may be allowed.

10. Also heard Mr. S.Sengupta, learned Sr. Additional PP, who has submitted that the I/O had only issued the notice u/s 41-A Cr.PC for which the Petitioner having complied with the same, there is no question of arrest at this stage. Hence, this application is not merited and is liable to be rejected.

11. Having heard the parties, on a pointed query by this Court, the learned counsel for the Petitioner has candidly admitted that there is no bar for issuance of notice u/s 41-A Cr.PC as many times as required by the I/O.

12. It is also to be noted that the provision of sub-section 3 of section 41-A Cr.PC provides that if a person complies and continues to comply with the notice he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officers is of the opinion that he

ought to be arrested.

13. Sub-section 4 however stipulates that if such person fails to comply with the terms of the notice, subject to an order passed by a competent court in this behalf, he is liable to be arrested for the offence mentioned in the notice.

14. In view of the fact that the Petitioner has approached this Court for grant of pre-arrest bail with reference to a notice issued to him u/s 41-A Cr.PC for which he has complied with, therefore, as per the provision of section 41-A (3) Cr.PC, there is no question of him being arrested at this juncture.

15. In the opinion of this Court, this instant application is premature and it is observed that there is no apprehension of arrest of the Petitioner at this juncture.

16. Accordingly, there is no merit in this application, the same is hereby rejected.

17. Matter disposed of. No cost.

18. These proceedings were taken up via video conferencing.

Judge

Meghalaya
16.09.2020
"Mr. N.Swer, Stenographer"